

A

REVIEW

OF THE

STATE

OF THE

ENGLISH NATION.

Saturday, February 16. 1706.

I May be a little the warmer on this Head of Bankrupts, on account that I have been a larger Sufferer by such means than ordinary : But I appeal to all the World, as to the Equity of the Case, What the difference is between having my House broken up in the Night to be Robb'd, and a Man coming in Good Credit, and with a Proffer of Ready Money in the middle of the Day, and buying 500*l.* of Goods, and carry them directly from my Warehouse into the *Mint*, and the next day laugh at me, and bid me defiance ? Yet this I have seen done : I think 'tis the justest thing in the World, that the last shou'd be esteem'd the greater Thief, and deserves most to be hang'd.

I have seen a Creditor come with his

Wife and Children, and beg of the Debtor only, to let him have part of his own Goods again, which he had bought, knowing and designing to Break : I have seen him with Tears and Intreaties Petition for his own, or but some of it, and be Taunted and Swore at, and deny'd by a Sawcy Insolent Bankrupt : That the poor Man has been wholly Ruin'd by the Cheat. 'Tis by the Villany of such, many an Honest Man is Undone, Families Starv'd and sent a Begging, and yet no Punishment prescribed by our Laws for it.

And all this Occasion'd by the Terror of a Commission, and the strange Extravagancies of its Execution.

If the Bankrupt be a Merchant, no Statute can reach his Effects beyond the Seas ;

Seas; so that he has nothing to secure but his Books, and away he goes into the *Friers*. If a Shopkeeper, he has more Difficulty; but that is made easie, for there are Men (and Carts) to be had, whose Trade it is, and who in one Night shall remove the greatest Warehouse of Goods, or Cellar of Wines in the Town, and carry them off into those Nurseries of Rogues, the *Mint* and *Friers*; and our Constables and Watch, who are the allow'd Magistrates of the Night, and who shall stop a poor little lurking Thief, that, it may be, has stole a bundle of old Cloaths, worth 5s, shall let them all pass without any disturbance, and see a Hundred Honest Men robb'd of their Estates before their Faces; to the Eternal Infamy of the Justice of the Nation.

And were a Man but to hear the Discourse among the Inhabitants of those Dens of Thieves, when they first swarm about a New Comer, to Comfort him; for they are not at all harden'd to a like degree at once. — Well, says the first, Come, don't be concern'd, you have got a good Parcel of Goods away, I promise you; you need not value all the World. Ah! won't I had done so, says another, I'd a laugh'd at all my Creditors. Ah! says the Young Proficient in the harden'd Trade, but my Creditors! Damn the Creditors, says a Third, Why, there's such a one and such a one, they have Creditors too, and they won't agree with them, and here they live like Gentlemen, and care not a Farthing for them. Offer your Creditors Half a Crown in the Pound, and pay it them in Old Delts; and if they won't take it, let them alone, they'll come after you, never fear it. O! But a Statute, says he again. O! But the Devil, cries the Minter. Why, 'tis the Statutes we live by, say they: Why, if 'twere not for Statutes, Creditors would Comply, and Debtors would Compound, and We Honest Fellows here of the Mint would be Starv'd. Priibee, What need you care for a Statute? A thousand Statutes can't reach you here. This is the Language of the Country; and the

New Comer soon learns to speak it; (for I think I may say, without wronging any Man, I have known many a Man go in amongst them Honest, that is, without ill Design; But I never knew one come away so again.) — Then comes a Graver Sort among this Black Crew, (for here, as in Hell, are Fiends of Degrees, and different Magnitude,) and he falls into Discourse with the New Comer, and gives him more solid Advice. Look you, Sir, I am Concern'd to see you Melancholly; I am in your Circumstance too; and if you'll accept of it, I'll give you the best Advice I can; and so begins the Grave Discourse.

The Man is in too much Trouble, not to want Counsel, so he thanks him, and he goes on: Send a Summons to your Creditors, and offer them what you can propose in the Pound (always reserving a good Stock to begin the World again,) which if they will take, you are a Freeman, and better than you were before; if they won't take it, you know the worst of it, you are on the better side of the hedge with them: If they will not take it, but will proceed to a Statute, you have nothing to do, but to oppose Force with Force; for the Laws of Nature tell you, you must not starve; and a Statute is so Barbarous, so Unjust, so Malicious a way of Proceeding against a Man, that I do not think any Debtor oblig'd to consider any thing but his own Preservation, when once they go on with that. — For why, says the Old Study'd Wretch, should the Creditors spend your Estate in the Commission, and then demand the Debt of you too? Do you owe any thing to the Commission of the Statute? (No, says he) Why then, says he, I warrant their Charges will come to 200l. out of your Estate, and they must have 10s. a day for Starving you and your Family. I cannot see why any Man should think I am bound in Conscience to pay the Extravagance of other Men. If my Creditors spend 500l. in getting in my Estate by a Statute, which I offer'd to surrender without it, I'll reckon that 500l. paid

paid them, let them take it among them ;
 for Equity is due to a Bankrupt, as well
 as to any Man ; and if the Laws do not
 give it us, we must take it.

This is too rational Discourse not
 to please him, and he proceeds by
 this Advice ; the Creditors cannot agree,
 but take out a Statute ; and the
 Man that offer'd at first, it may be,
 10 s. in the Pound, is kept in that Cur-
 sed Place till he has spent it all, and can
 offer nothing ; and then gets away be-
 yond Sea, or after a long Consumption
 gets off by an Act of Relief to the Poor
 Debtors, and all the Charges of the Sta-
 tute falls among the Creditors. Thus
 I knew a Statute taken out against a
 Shopkeeper in the Country, and a con-
 siderable Parcel of Goods too seiz'd,
 and yet the Creditors, what with Char-
 ges, and two or three Suits at Law,
 lost their whole Debts, and 8 s. per
 Pound, Contribution-Money, for Char-
 ges : and the poor Debtor, like a Man
 under the Surgeon's hand, died in the
 Operation.

(2.) Another Evil, that Time and Ex-
 perience has brought to Light from
 this Act, is, when the Debtor himself
 shall confederate with some particular
 Creditor to take out a Statute ; and this
 is a Master-piece of *Flot* and Intrigue :
 For perhaps some Creditor honestly
 receiv'd in the way of Trade a large
 Sum of Money of the Debtor for Goods
 sold him, when he was *sui juris* ; and he
 by Consent shall own himself a Bank-
 rupt before that time, and the Sta-
 tute shall reach back to bring in an
 Honest Man's Estate, to help pay a
 Rogue's Debt. Or a Man shall go and
 borrow a Sum of Money upon a Parcel of
 Goods, and lay them to Pledge ; he keeps
 the Money, and the Statute shall fetch
 away the Goods to help forward the
 Composition. These are Tricks I can
 give too good an account of, having more
 than once suffer'd by the Experiment.
 I could give a Scheme of more ways,
 but I think 'tis needless to prove the

Necessity of laying aside that Law,
 which is pernicious to both Debtor and
 Creditor, and chiefly hurtful to the Honest
 Man, who it was made to preserve.

The next Enquiry is, Whether the
 Extremities of this Law are not often
 carried on beyond the true Intent and
 Meaning of the Act itself, for Malicious
 and Private Ends, to gratify Passion and
 Revenge ?

I remember the Answer a Person gave
 me, who had taken out Statutes against
 several Persons, and some his near Re-
 lations, who had fail'd in his Debt ; and
 when I was one time dissuading him from
 Prosecuting a Man, who ow'd me Money
 as well as him, I us'd this Argument with
 him ; *You know the Man has nothing left to*
Pay. That's true, says he, *I know that*
well enough. To what purpose then, said
I, will you Prosecute him ? Why, Re-
venge is sweet, said he. — Now a
 Man that will Prosecute a Debtor,
 not as a Debtor, but by way of Revenge,
 such a Man is, I think, not intention-
 ally within the Benefit of our Law.

In Order to state the Case right,
 there are four sorts of People to be con-
 sider'd in this Discourse ; and the true
 Case is, how to distinguish them.

(1.) There is the Honest Debtor, who
 fails by visible Necessity, Losses, Sick-
 ness, Decay of Trade, or the like,

(2.) The Knavish, Designing, or Idle,
 Extravagant Debtor ; who fails because
 either he has run out his Estate in Ex-
 cesses, or on purpose to Cheat and Ab-
 use his Creditors.

(3.) There is the Moderate Creditor,
 who seeks but his own, but will omit
 no lawful Means to gain it, and yet
 will hear reasonable and just Arguments
 and Proposals.

(4.) There is the Rigorous, Severe
 Creditor, that values not whether the
 Debtor be Honest Man or Knave, Able,
 or Unable ; but will have his Debt, whe-
 ther it be to be had or no ; without
 Mercy, without Compassion, full of ill
 Language, Passion, and Revenge.

How

* How to make a Law to suit to all these, is the Case: *That a necessary Pavour might be shewn to the First*, in Piety and Compassion to the Unfortunate, in Commiseration of Casualty and Poverty, which no Man is exempt from the Danger of. *That a due Rigor and Restraints be laid upon the Second*, that Villany and Knavery might not be encouraged by a Law. *That a due Care be taken of the Third*, that Men's Estates may, as far as can, be secur'd to them. *And due Limits set to the last*, that no Man may have an unlimited Power over his Fellow-Subjects, to the Ruine of both Life and Estate.

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